



COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS
DEPARTMENT OF ENVIRONMENTAL PROTECTION
Metropolitan Boston - Northeast Regional Office

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Lieutenant Governor

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EDWARD P. KUNCE
Acting Commissioner

MODIFIED WATER WITHDRAWAL PERMIT
MGL c 21G

This Modified Permit is issued pursuant to the Massachusetts Water Management Act (the "Act") for the sole purpose of modifying the terms and conditions governing the withdrawal of water authorized herein. This Modified Permit conveys no right in or to any property beyond the right to withdraw the volume of water for which it is issued.

PERMIT NUMBER: 9P-3-17-229.01 **RIVER BASIN:** Ipswich

PERMITTEE: City of Peabody
24 Lowell Street
Peabody, MA 01960-3902

ORIGINAL ISSUANCE DATE: February 15, 1991

MODIFICATION DATE: May 19, 2003

EXPIRATION DATE: August 31, 2009

NUMBER OF WITHDRAWAL POINTS: 3 surface water and 2 groundwater sources

USE: Public Water Supply

DAYS OF OPERATION: 365

LOCATION(S):

| <u>Source</u> | <u>Source Code</u> | <u>Latitude</u> | <u>Longitude</u> | <u>Location</u> |
|---------------------|--------------------|-----------------|------------------|---------------------------------|
| Pine Street Well | 3229000-01G | | | Pine Street, Peabody |
| Johnson Street Well | 3229000-02G | | | Johnson St., Peabody |
| Suntaug Lake | 3229000-02S | | | Off Rt. 1, Peabody/Lynnfield |
| Winona Pond | 3229000-04S | | | Winona St. Peabody/Lynnfield |
| Ipswich River | 3229000-03S | | | Russell St., Peabody |

This information is available in alternate format. Call April McCabe, ADA Coordinator at 1-617-556-1171.

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SPECIAL CONDITIONS

1. Maximum Authorized Annual Average Withdrawal Volume

This Modified Permit authorizes the withdrawal of water for the purpose of serving the businesses, schools, municipal facilities, institutions and residences in the City of Peabody (the “City” or “Peabody”) at the rate described below on average over a calendar year. The volume reflected by this rate is in addition to the 3.89 million gallons per day (MGD) previously registered to the permittee through the Water Management Act Program in the Ipswich River Basin and the 1.89 MGD previously registered to the permittee in the North Coastal Basin. The Department will use raw water volumes when assessing compliance with the volumes authorized by the City’s Registrations and this Modified Permit.

The permitted volume is expressed in millions of gallons, both as an average daily withdrawal rate per year and as a total annual withdrawal volume for each period of this Modified Permit.

These volumes are conditionally approved, pending determination of the firm yield of the Peabody water system.

Withdrawals are authorized as follows:

| | | | <u>Daily Average (MGD)</u> | <u>Total Annual (MGY)</u> |
|--------------|-----------|--------------|------------------------------------|-----------------------------------|
| Period One | | | | |
| Years 2-5 | 2/15/1991 | to 8/31/1994 | 0.58 | 211.70 |
| Period Two | | | | |
| Years 6-10 | 9/1/1994 | to 8/31/1999 | 0.58 * | 211.70 |
| Period Three | | | | |
| Years 11-13 | 9/1/1999 | to 5/18/2003 | 0.69 | 251.85 |
| Period Four | | | | |
| Years 13-20 | 5/19/2003 | to 8/31/2009 | 0.58* | 211.70 |

* Actual water withdrawals have been significantly below the volumes originally allocated. In addition, there is insufficient water available in the Ipswich River Basin at this time to support increased withdrawals. In these circumstances, the Department has held the City’s permitted withdrawal volumes to the volume originally allocated for Period One.

If, for any year beginning with calendar year 2004, the City exceeds its total authorized withdrawal volume of 6.36 MGD on an average annual daily basis, on or before March 1st of the following year, the City shall submit to the Department for its review and approval a plan and schedule for implementing a water bank. Thereafter, the City shall implement the water bank as approved by the Department.

At a minimum, this water bank shall provide for conserving at least two gallons of water for each additional gallon of water demand. The water bank requirement applies, even if the City exceeds its total authorized volume on an average annual daily basis by an amount that is less than the threshold volume. If the City exceeds its total authorized volume on an average annual daily basis by more than the threshold amount, Peabody will be in violation of the Water Management Act and this Modified Permit.

2. Maximum Authorized Daily Withdrawal Volume

Withdrawals from individual withdrawal points are not to exceed the approved maximum daily volume listed below without specific advance written approval from the Department.

| Source | Source Code | Maximum Daily Rate in Million Gallons per Day (MGD) |
|--------------------------|-------------|---|
| Pine Street Well | 3229000-01G | 1.01 MGD |
| Johnson Street Wellfield | 3229000-02G | 1.09 MGD |
| Suntaug Lake | 3229000-02S | Not Applicable |
| Winona Pond | 3229000-04S | Not Applicable |
| Ipswich River | 3229000-03S | ** |

** Withdrawals from the Ipswich River may not exceed **1500 million gallons** per year and are further constrained by the diversion thresholds outlined in Special Condition #3.

As of the issuance date of this Modified Permit, the City has suspended use of the Pine Street Well and the Johnson Street Well because of concerns about water quality. The City shall not resume use of these wells without obtaining the prior written approval of the Department's Drinking Water Program. The Department reserves the right to establish streamflow thresholds that limit the use of these wells.

3. Ipswich Streamflow Diversion Thresholds

Ipswich River- Withdrawals from the Ipswich River may only be made under the following streamflow conditions as measured at the United States Geological Survey (USGS) streamflow gauge #01101500 in South Middleton:

| Period | Streamflow Diversion Thresholds | Flow Volume (USGS South Middleton Gauge Station 01101500) |
|-------------|---------------------------------|---|
| 6/1 – 10/30 | >3.17 cfs _{sm} * | > 141 cfs * |
| 11/1 – 2/28 | >1.0 cfs _{sm} * | > 44.5 cfs * |
| 3/1 – 5/31 | >1.0 cfs _{sm} * | > 44.5 cfs * |

cfs_{sm} = cubic feet per second per square mile
cfs = cubic feet per second

The above values represent interim streamflow diversion thresholds. The Department's initial review has indicated that the City can meet existing demands in accordance with all the terms

and conditions of this Modified Permit including the interim streamflow diversion thresholds set forth above.

The interim streamflow thresholds set forth in the table set forth above are based on streamflow in the Ipswich River downstream of Peabody's diversion's point. Since the USGS South Middleton Gauge that is used to measure the diversion trigger is located upstream of Peabody's diversion point, beginning June 1, 2003 and thereafter, except as otherwise provided herein, Peabody shall track with a spreadsheet and hydrograph mean daily streamflow at the USGS South Middleton Gauge less the daily diversion volume to demonstrate that streamflow downstream of the City's diversion is above the threshold. If, at any time, the City decides to measure actual steamflow at a point in the Ipswich River that is downstream of its diversion point, by means of a staff gauge or other monitoring instrument, Peabody shall submit to the Department, for its review and approval, a plan and schedule for installing, operating and maintaining the staff gauge or other monitoring instrument. Thereafter, Peabody shall implement the plan and schedule as approved by the Department. Upon installation of the staff gauge or other monitoring instrument in accordance with the plan and schedule approved by the Department, the City may discontinue tracking mean daily streamflow with the spreadsheet and hydrograph as provided herein.

The interim streamflow thresholds set forth in the table above shall remain in effect, only until the Department gathers sufficient information to establish additional interim streamflow diversion thresholds and/or final streamflow diversion thresholds. This additional information includes without limitation supplemental modeling by the USGS.

To assist in the development of additional interim streamflow diversion thresholds or final streamflow diversion thresholds, the Department requires that the City submit the following information:

- On or before November 16, 2003, the City shall submit to the Department a plan that outlines the historic operating ranges of reservoir elevations during the months of March – May, and identifies how these reservoir elevations affect the amount of water the City diverts from the Ipswich River and how much the City purchases from the MWRA.
- On or before December 31, 2004, the City shall submit to the Department a report evaluating how the City can accomodate its existing demand by meeting the Ipswich River Basin Performance Standards set forth in Special Condition # 9 and by optimizing use of its existing sources. In evaluating system optimization, the City shall examine how Peabody could make use of the Pine Street Well and the Johnson Street Well to compensate for periods when the City is unable to divert water from the Ipswich River under the interim streamflow thresholds set forth above and under the streamflow thresholds proposed by the Ipswich River Fisheries Restoration Task Group (the "Fisheries Group"): 1.0 cfs, November thru February; 2.5 cfs, March thru May; and 0.49 cfs, June thru October. The report should identify any actions that are needed to optimize use of the City's surface water sources under the interim streamflow diversion thresholds and the streamflow thresholds recommended by the Fisheries Group. The report shall set forth how much water the City would purchase from the MWRA under the interim streamflow thresholds and under the streamflow thresholds recommended by the Fisheries Group with the addition of the Pine Street Well and the Johnson Street Well and any other changes required to optimize the use

of the City's surface water sources. In the City's response to the Order to Complete, the City indicated that it was Peabody's goal to purchase an average annual daily volume of 0.5 MGD from the MWRA rather than the 1 MGD it is authorized to obtain from the Authority. If the City determines it cannot achieve this goal of limiting the purchase of MWRA to an annual average of 0.5 MGD under the interim streamflow diversion thresholds or the streamflow thresholds recommended by the Fisheries Group by optimizing the use of its existing sources, the report shall evaluate whether the City should modify this goal or obtain additional water sources. If the City determines that it should obtain additional water sources, the report should include a plan and schedule for developing those sources.

4. Zone of Contribution (Zone II or Zone III) Delineations

Department records show that Peabody's Pine Street Well (3229000-01G) and Johnson Street Well (3229000-02G) have approved Zone II delineations. Therefore, no further Zone II Work is required as a condition of this Modified Permit.

5. Wellhead Protection

Department records show that Peabody has enacted land use controls and water supply protection measures that comply with the requirements of 310 CMR 22.21(2). Therefore, no additional wellhead protection is required as a condition of this Modified Permit.

6. Surface Water Protection Requirement

On or before May 16, 2005, the City shall comply with 310 CMR 22.20C(1)(d)4 by developing a Department approved protection plan.

On or before May 16, 2005, the City shall implement zoning and nonzoning controls that meet the requirements of 310 CMR 22.20C(2) to protect the portion of the Zone A that lies within the City of Peabody.

On or before May 16, 2005, the City shall document to the Department that it has used its best efforts to get the cities of Lynn and Salem and the Town of Lynnfield to implement zoning and nonzoning controls that meet the requirements of 310 CMR 22.20C(2) to protect the portion of the Zone A that lies with the boundaries of each of those municipalities.

7. Firm Yield

The Department will review the additional USGS modeling before determining the firm yield. Depending on the results of this review, the Department reserves the right to modify the interim streamflow thresholds set forth in Special Condition #3 and establish additional interim streamflow thresholds and/or final streamflow thresholds. The Department further reserves the right to require the City to submit additional information relevant to the determination of the firm yield of the system. The City shall supply the information requested.

8. Streamflow Triggers and Outside Water Use Restrictions

Beginning on June 1, 2003, the City shall implement the Required Actions identified in the following table, when streamflow falls below the levels identified for three consecutive days, as measured at the USGS Stream gauge noted.

| Period | Streamflow Trigger (3 consecutive days below threshold) | Flow Volume (USGS South Middleton Gauge Station #01101500) * | Required Action |
|---|---|---|---|
| May 1st – September 30 th | < 0.56 cfsm | < 24.9 cfs | Public Notice for Voluntary Water Restrictions |
| May 1st – September 30 th | <0.42 cfsm | <18.7 cfs | Implementation of Mandatory Water Restrictions |

cfsm = cubic feet per second per square mile

cfs = cubic feet per second

* The streamflow thresholds set forth above are the daily mean streamflows recorded at the applicable USGS gauge. Should the reliability of flow measurements at the South Middleton Gauge Station be so impaired as to question its accuracy, the permit holder may request for the Department's review and approval, that the trigger mechanism be transferred to the USGS Ipswich Gauge #01102000. The implementation of restrictions will be triggered by the same cfsm values that translate to a flow of 70 cfs for voluntary restrictions, and 52.5 cfs for mandatory restrictions. Should the Department become aware of concerns about the reliability of either gauge, it may, upon immediate notification to the permit holder, transfer the measurement point to an alternate gauge. The Department reserves the right to modify the above table to use a different gauge.

Required Actions, voluntary or mandatory, require the filing of a public notice that must appear at a minimum in a local newspaper within 5 business days of the date that the required action is triggered. A copy of each notice as published must be forwarded to the Department within 10 business days of publication. Each notice must at a minimum include:

1. the streamflow value triggering the required notification;
2. the need to limit water use, especially nonessential outside water use, to protect streamflows for aquatic life and to ensure a sustainable drinking water supply;
3. ways individual homeowners can limit water use, especially nonessential outside water use; and
4. in the case of mandatory restrictions, a detailed description of the restrictions and the penalties for violating the restrictions.

At a minimum, the mandatory restrictions shall limit nonessential outside water use to hand held hoses only and include hourly restrictions on nonessential outside water use. At a minimum, hourly restrictions shall avoid water use during the hours 9 a.m.- 5 p.m., when evapotranspiration rates are typically at their highest. Notwithstanding the foregoing, irrigation of public parks and recreational fields by means of automatic sprinklers equipped with moisture sensors or similar control technology may be permitted outside of the hours 9 a.m.- 5 p.m. For purposes of this Modified Permit, the term nonessential outside water use is defined to include those uses that do not have health or safety impacts, are not required by regulation, and are not needed to meet the core functions of a business or other organization. The City shall have the authority to enforce mandatory restrictions, including the authority to assess penalties or impose fines for violations.

The City shall implement, and in the case of mandatory restrictions, enforce the restrictions, until streamflow exceeds, for seven consecutive days, the applicable streamflow threshold set forth in the table above.

In order to evaluate the effectiveness of the restrictions on nonessential outside water use, the Department requires that the City submit, along with the Annual Statistical Report, a report documenting all actions taken by the City to implement and enforce the restrictions on nonessential outside water use, including without limitation the dates the restrictions on nonessential outside water use were in place, the streamflow threshold that triggered the restrictions, the restrictions imposed, and the City's efforts to enforce the restrictions including the names and addresses of those against whom action was taken and any fines or penalties imposed.

9. Ipswich River Basin Performance Standards

Beginning calendar year 2004, the City shall meet the following performance standards (the "Ipswich River Basin Performance Standards").

Performance Standard for Unaccounted for Water

Unaccounted for water shall not exceed 10% of overall water use.

Peabody's Annual Statistical Report shall provide a detailed assessment of its unaccounted for water. Unaccounted for water is defined by the Massachusetts Water Resources Commission as the difference between water pumped or purchased and water that is metered or confidently estimated. Unaccounted for water shall include water that cannot be accounted for due to meter problems, unauthorized hydrant openings, unavoidable leakage, recoverable leakage, illegal connections, stand pipe overflows and fire protection.

The need for water main flushing and the use of water in construction or meter calibration shall be metered or estimated as appropriate in determining actual demand. Volumes flushed to waste shall be reported on the City's Water Supply Annual Statistical Report.

Performance Standard for Residential Per Capita Water Use

Residential Per Capita Water use shall not exceed 65 gallons per day.

Peabody shall report its residential gallons per capita per day (rgpcd) and the calculation used to derive that figure as part of its Annual Statistical Report. The rgpcd is the total volume of residential water use in gallons divided by the population served. The source of the data used to establish the service population and the year in which the data was developed shall be provided. If Peabody fails to meet the performance standard for keeping residential per capita water use at or below 65 gallons per day, the Department may require the City to implement restrictions on nonessential outside water use that are more stringent than the restrictions set forth in Special Condition # 8.

Performance Standard for Seasonal Water Use

Water use between May 1st and September 30th shall not exceed the seasonal cap of 1018.98 million gallons. To stay within this cap, Peabody shall keep its water use at or below an average daily volume of 6.66 MGD from May 1st thru September 30th. If the City exceeds this seasonal cap, the Department may require the City to implement more stringent restrictions on nonessential outside water use than those set forth in Special Condition #8.

10. Enhanced Water Conservation Plan

If, in any year beginning with calendar year 2004, Peabody fails to comply with the Performance Standards for Residential Per Capita Water Use and/or Seasonal Water Use, the City shall develop and implement an enhanced water conservation plan for the following calendar year. For any year in which the City is required to develop and implement an enhanced water conservation plan, the City shall, along with the Annual Statistical Report, submit a report documenting all actions taken by the City to develop and implement the enhanced water conservation plan.

The enhanced water conservation plan may include without limitation the items listed below

- Adoption and enforcement of an ordinance or other regulation to require moisture sensors or similar control technology on automatic sprinklers;
- Adoption and enforcement of an ordinance or other regulation to limit the amount of land clearing for the creation of lawns;
- Irrigation of recreational fields and public parks in accordance with the Water Resource Commission's May 2002 Guide to Lawn and Landscape Water Conservation;
- Encouragement of the use of cisterns or rain barrels for outside watering thru the use of a rebate or at cost program;
- Enhanced public education outreach; and/or
- Purchase and/or development of out-of-basin sources.

At a minimum, the enhanced water conservation plan shall meet the requirements set forth below.

- If Peabody fails to comply with the performance standard for keeping residential per capita water use at or below 65 gallons per day, the enhanced water conservation plan shall include the implementation of a program to make water saving devices such as faucet aerators, low flow shower heads and toilet displacement bottles/dams available to its customers at cost and to provide rebates or other incentives for the purchase of low flow appliances (washing machines, dishwashers, and toilets) and the installation of moisture sensors or similar control technology on irrigation systems.
- Any enhanced water conservation plan required by this Modified Permit shall include (1) submission of a report that evaluates the effectiveness of an increasing block rate or a seasonal rate as a tool for encouraging water conservation, (2) implementation of any changes to the current rate structure that will enable the City to encourage water conservation, and (3) notification to the Department of the changes along with the reason for the changes. The report shall evaluate the City's practice of allowing second meters and recommend whether this practice should be changed or discontinued.

11. Control of Unaccounted for Water

At a minimum, the City shall take the actions listed below to meet the performance standard for keeping unaccounted for water at or below 10%.

Metering

On or before December 31, 2003, the City shall submit to the Department a plan and schedule for ensuring that by July 1, 2005, 100% of the Peabody system, including all public buildings, is metered and that all service meters accurately measure the volume of water used by the City's customers within 2%. Thereafter, the City shall implement the plan.

On or before July 1, 2005, the City shall submit a report documenting that it has implemented the plan, that 100% of the Peabody system, including all public buildings, is metered, and that all service meters accurately measure the volume of water used by the City's customers within 2%.

The City shall calibrate all master meters including the meters that measure raw water and finished water on an annual basis.

Leak Detection

At a minimum, the City shall conduct a full leak detection survey every three years. In addition, the City shall perform a leak detection survey of its entire distribution system, whenever the volume of unaccounted for water is greater than 10% of overall water use, or whenever the percentage of unaccounted for water increases by 5% or more (for example an increase from 3% to 9%) over the percentage reported on the City's Annual Statistical Report for the prior calendar year. On or before December 31 of any calendar year in which a leak detection survey takes place, the City shall submit to the Department, for its review, a report detailing the leak detection survey, any leaks uncovered as a result of the survey or otherwise, and the estimated water savings as a result of the repair.

Leak Repair

The City shall have repair reports available for inspection by the Department.

Leaks shall be repaired as soon as possible including leaks in any water pipes up to the service meter. In no event, shall any leak remain unrepaired for more than seven days after detection.

12. Reporting Requirements

The City shall submit along with the Annual Statistical Report the volumes withdrawn daily from the Ipswich River (3229000-03S) and the mean daily streamflow beginning June 1, 2003 and thereafter.

The City shall report both the raw and finished water volumes for the entire water system including the volume of raw water entering each of the City's treatment plants. For individual water sources in the system, raw water volumes shall also be reported.

On or before December 31, 2003, the City shall submit to the Department a plan and schedule for reporting all the categories of water consumption information required by the Annual Statistical

Report beginning with calendar year 2005. Thereafter, the City shall implement the plan and schedule. Beginning calendar year 2005, the City shall report all the categories of water consumption information required by the Annual Statistical Report.

13. Commercial and Industrial Conservation Program

The City shall implement a program to reduce water use by its ten (10) largest industrial and commercial customers. On or before March 1, 2005, the Town shall report on the effectiveness of this program. Upon receipt of this program, the Department will take whatever action it deems appropriate to promote the interests of the Water Management Act including without limitation requiring the City to take additional actions to reduce commercial and industrial water use.

14. General Conservation Requirements

Pricing

The City shall ensure that water supply system operations are fully funded by water supply system revenues. The pricing system should at least reflect the full cost of supplying water, including but not limited to:

- Administrative costs;
- Staff salaries, benefits, insurance and pension costs;
- Distribution system operation, maintenance and repair, including leak detection and repair costs and metering costs;
- Pumping costs and utilities;
- Treatment costs;
- Capital replacement costs, capital depreciation and debt service;
- Costs incurred by the public water systems for water conservation programs and public education programs;
- Watershed or wellhead purchase and/or protection costs and land acquisition; and
- Emergency planning.

Plumbing

The City shall enforce the March 1, 1989 plumbing code for new construction and building rehabilitation where installation of water saving devices and low flow toilets is required.

On or before December 31, 2003, the City shall submit a report that identifies all public buildings, previous efforts to retrofit those buildings with water saving devices, including but not limited to faucet aerators, low flow shower heads, toilet displacement bottles/dams, low flow toilets, and automatic shut off faucets and a schedule for completing the retrofit by July 1, 2005.

On or before July 1, 2005, the City shall complete the retrofit of all public buildings in accordance with the schedule and notify the Department in writing that the retrofit of all public buildings is complete.

Education

The City shall develop and implement a public education program that includes at a minimum: distribution of information on water conservation, lawn care and gardening, and staff available upon request to communities groups. The City's public education program should continue to emphasize:

- all the costs of providing water;
- that investments in efficiency and conservation will provide consumers with long-term savings;
- how water use fluctuates throughout the year; and
- the environmental benefits of conserving water.

Bill stuffers with water conservation tips or water saving messages shall, at a minimum, be included annually with customer's water bills, or as a separate mailing. Copies of this information shall be made available to the Department upon request.

GENERAL CONDITIONS

1. **Duty to Comply** The permittee shall comply at all times with the terms and conditions of this Modified Permit, the Act and all applicable State and Federal statutes and regulations.
2. **Operation and Maintenance** The permittee shall at all times properly operate and maintain all facilities and equipment installed or used to withdraw up to the authorized volume so as not to impair the purposes and interests of the Act.
3. **Entry and Inspections** The permittee or the permittee's agent shall allow personnel or authorized agents or employees of the Department to enter and examine any property for the purpose of determining compliance with this Modified Permit, the Act or the regulations published pursuant thereto, upon presentation of proper identification and an oral statement of purpose.
4. **Water Emergency** Withdrawal volumes authorized by this Modified Permit are subject to restriction in any water emergency declared by the Department pursuant to MGL c 21G ss 15-17, MGL c 150 ss 111, or any other enabling authority.
5. **Transfer of Permits** This Modified Permit shall not be transferred in whole or in part unless and until the Department approves such transfer in writing, pursuant to a transfer application on forms provided by the Department requesting such approval and received by the Department at least thirty (30) days before the effective date of the proposed transfer. No transfer application shall be deemed filed unless it is accompanied by the applicable transfer fee established by 310 CMR 36.37.
6. **Duty to Report** The permittee shall submit annually, on a form provided by the Department the Annual Statistical Report), a certified statement of the withdrawal, such report to be received by the Department by February 28th of each year. Such report must be mailed or hand delivered to:

Department of Environmental Protection
Water Management Program
One Winter Street, 6th Floor

Boston, MA 02108

7. **Duty to Maintain Records** The permittee shall be responsible for maintaining monthly records of its withdrawal.
8. **Metering** All withdrawal points included within the Modified Permit shall be metered. Meters shall be calibrated annually.

APPEAL RIGHTS AND TIME LIMITS

This permit modification is a decision of the Department. Any person aggrieved by this decision may request an adjudicatory hearing under the provisions of M.G.L.c. 30A. Any such request must be made in writing, by certified mail and received by the Department within twenty-one (21) days of the date of receipt of this Modified Permit. Only the portions of the Modified Permit that reflect a modification of the City's current permit may be the subject of an appeal, since the appeal period associated with the City's current permit has expired, and the prior appeal has been settled.

No request for an appeal of this Modified Permit shall be validly filed unless a copy of the request is sent by certified mail, or delivered by hand to the local water resources management official in the city or town in which the withdrawal point is located; and for any person appealing this decision, who is not the permit holder, unless such person notifies the permit holder of the appeal in writing by certified mail or by hand within five (5) days of mailing the appeal to the Department.

CONTENTS OF HEARING REQUEST

310 CMR 1.01(6)(b) requires the request to include a clear and concise statement of the facts which are the grounds for the request and the relief sought. For any person appealing this decision who is not the permit holder, the request shall include a clear and concise statement of how that person is aggrieved by the issuance of this Modified Permit.

FILING FEE AND ADDRESS

The hearing request, together with a valid check, payable to the Commonwealth of Massachusetts in the amount of \$100 must be mailed to:

Commonwealth of Massachusetts
Department of Environmental Protection
P.O. Box 4062
Boston, Ma. 02211

The request shall be dismissed if the filing fee is not paid, unless the appellant is exempt or granted a waiver as described below.

EXEMPTIONS

The filing fee is not required if the appellant is a city or town (or municipal agency), county, district of the Commonwealth of Massachusetts, or a municipal housing authority.

WAIVER

The Department may waive the adjudicatory hearing filing fee for any person who demonstrates to the satisfaction of the Department that the fee will create an undue financial hardship. A person, seeking a waiver must file, together with the hearing request, an affidavit setting forth the facts which support the claim of undue hardship.

NO WITHDRAWAL AUTHORIZED HEREIN SHALL EXCEED THE SAFE YIELD OF THE BASIN AS DETERMINED BY THE DEPARTMENT.

NO WITHDRAWAL IN EXCESS OF 100,000 GALLONS PER DAY OVER THE REGISTERED VOLUME (if any) SHALL BE MADE FOLLOWING THE EXPIRATION OF THIS PERMIT, UNLESS BEFORE THAT DATE THE DEPARTMENT HAS RECEIVED A RENEWAL PERMIT APPLICATION PURSUANT TO 310 CMR 36.00.